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PATENT

Customer No. 22,852
Attorney Docket No. 5552.0265-04000

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:

Heinz-Jürgen FRIESEN et al.

Application No.: 09/820,974

Filed: March 30, 2001

For: SHEET-LIKE DIAGNOSTIC
DEVICECommissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

SECOND SUPPLEMENTAL DECLARATION UNDER 37 C.F.R. § 1.175(b)

On behalf of Dade Behring Marburg GmbH, formerly Behringwerke Aktiengesellschaft, the assignee of the entire interest in U.S. Patent No. 4,861,711, (the '711 patent), we hereby declare that:

1. We executed an Original Reissue Declaration on May 7, 1996, for the parent Reissue Application No. 08/544,579, which was filed in this reissue application on March 30, 2001. In that declaration, we declared that "the '711 patent may be partly inoperative or invalid by claiming more than the patentee had a right to claim. Any error that may have occurred in claiming more than the patentee was entitled to arose without any deceptive intent on the part of the inventors or Behringwerke." See Original Declaration ¶ 6. We then recited information regarding Interference No. 103,072 as the basis for the claim amendments and the cancellation of claims 2-17 and 19-34 in the parent reissue application. See *Id.* at ¶¶ 6, 7, 15, and 16.

2. We declare in this Supplemental Declaration that at least one error being relied upon as the basis for reissue under 37 C.F.R. 1.175(a)(1) was that the '711 patent is partly inoperative or invalid based on the findings of the Administrative Patent Judge in Interference No. 103,072, as claiming more than the patentee was entitled to claim.

3. We believe that every error in the '711 patent being corrected in the present reissue application, including any error not covered by the original reissue declaration or the Supplemental Declaration, submitted in this reissue application, arose without deceptive intent on the part of the inventors or the assignee, Dade Behring Marburg GmbH.

4. We hereby declare that all statements made herein of our own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the reissue application or any patent issued thereon.

Respectfully submitted,

Name: Drs. Gerrit Middelkoop
Position: Director Finance &
General Services

Dated: July 23, 2003

Name: Dr. Bernhard Auerbach
Position: Director Patents and Licenses

Dated: July 23, 2003